

_____ BILL NO. _____

INTRODUCED BY _____

(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING STATE EMPLOYEES, ELECTED OFFICIALS, AND CERTAIN OTHER INDIVIDUALS WHO ARE PAID BY THE STATE AND WHO TRAVEL ON OFFICIAL STATE BUSINESS TO TRANSFER TO THE STATE ANY TRANSFERRABLE BENEFIT THAT RESULTS FROM THE TRAVEL WHILE THE STATE EMPLOYEE, ELECTED OFFICIAL, OR OTHER INDIVIDUAL IS ON OFFICIAL STATE BUSINESS; PROVIDING PENALTIES FOR VIOLATION; REQUIRING THE DEPARTMENT OF ADMINISTRATION TO ADOPT RULES; AND AMENDING SECTIONS 2-2-104 AND 2-2-111, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Travel benefits transferrable to state -- definitions -- penalty -- rules.

(1) Whenever a state employee is on official state business that involves travel, the state employee shall transfer to the state ownership of any benefit that results from the travel and that would ordinarily, if the state employee were not on official state business, accrue to the state employee.

(2) For the purposes of this section, the following definitions apply:

(a) (i) "Benefit" means anything of direct or indirect pecuniary value that is transferrable to the state regardless of the manner in which the benefit is received or may be redeemed, including but not limited to frequent-flyer miles, upgrade of passenger travel status, upgrade of accommodations regardless of the type of accommodation, welcoming gifts, tee prizes, discount coupons, free or discounted tickets, vouchers, rainchecks, and any similar type of complimentary, discounted, or free bestowal.

(ii) The term does not include:

(A) salary, wages, or benefits due to an employee or for which an employee is eligible under Title 2;

(B) a comestible that is consumed on premises, an award or gift that is bestowed to the employee in recognition of the employee's work, contribution, or heroic or benevolent action, or a prize that is awarded as a matter of chance; or

(C) anything that is not transferrable to and redeemable by the state.

(b) "State employee" means:

(i) an employee described in 2-18-701;

1 (ii) an individual included in the list in 2-18-103, except county assessors and their chief deputies; and

2 (iii) an individual described in 2-18-104, referred to as personal staff.

3 (3) Travel includes a meal, lodging, or transportation for which an employee is eligible for
4 reimbursement pursuant to 2-18-501 through 2-18-503 and for which the employee is reimbursed.

5 (4) (a) Except as provided in subsection (4)(b), an employee who violates the provisions of this section
6 is subject to the penalties provided for in 2-2-136, including disciplinary action considered to be appropriate by
7 the employee's supervisor.

8 (b) An elected official listed in 2-18-103, a district court judge, a justice of the Montana supreme court,
9 or an employee listed in 2-18-103(5) or (14) who violates the provisions of this section is considered to have
10 violated the rules of conduct pursuant to Title 2, chapter 2, part 1, and is subject to the penalties provided for
11 in 2-2-136.

12 (5) Money collected from a penalty imposed pursuant to this section must be deposited in the state
13 general fund.

14 (6) The department shall adopt rules for the administration of this section.

15
16 **Section 2.** Section 2-2-104, MCA, is amended to read:

17 **"2-2-104. Rules of conduct for public officers, legislators, and public employees.** (1) Proof of
18 commission of any act enumerated in this section is proof that the actor has breached the actor's public duty.
19 A public officer, legislator, or public employee may not:

20 (a) disclose or use confidential information acquired in the course of official duties in order to further
21 substantially the individual's personal economic interests; ~~or~~

22 (b) accept a gift of substantial value or a substantial economic benefit tantamount to a gift:

23 (i) that would tend improperly to influence a reasonable person in the person's position to depart from
24 the faithful and impartial discharge of the person's public duties; or

25 (ii) that the person knows or that a reasonable person in that position should know under the
26 circumstances is primarily for the purpose of rewarding the person for official action taken; or

27 (c) violate the provisions of [section 1].

28 (2) An economic benefit tantamount to a gift includes without limitation a loan at a rate of interest
29 substantially lower than the commercial rate then currently prevalent for similar loans and compensation
30 received for private services rendered at a rate substantially exceeding the fair market value of the services.

Campaign contributions reported as required by statute are not gifts or economic benefits tantamount to gifts.

(3) (a) Except as provided in subsection (3)(b), a public officer, legislator, or public employee may not receive salaries from two separate public employment positions that overlap for the hours being compensated, unless:

(i) the public officer, legislator, or public employee reimburses the public entity from which the employee is absent for the salary paid for performing the function from which the officer, legislator, or employee is absent; or

(ii) the public officer's, legislator's, or public employee's salary from one employer is reduced by the amount of salary received from the other public employer in order to avoid duplicate compensation for the overlapping hours.

(b) Subsection (3)(a) does not prohibit:

(i) a public officer, legislator, or public employee from receiving income from the use of accrued leave or compensatory time during the period of overlapping employment; or

(ii) a public school teacher from receiving payment from a college or university for the supervision of student teachers who are enrolled in a teacher education program at the college or university if the supervision is performed concurrently with the school teacher's duties for a public school district.

(c) In order to determine compliance with this subsection (3), a public officer, legislator, or public employee subject to this subsection (3) shall disclose the amounts received from the two separate public employment positions to the commissioner of political practices."

Section 3. Section 2-2-111, MCA, is amended to read:

"2-2-111. Rules of conduct for legislators. Proof of commission of any act enumerated in this section is proof that the legislator committing the act has breached the legislator's public duty. A legislator may not:

(1) accept a fee, contingent fee, or any other compensation, except the official compensation provided by statute, for promoting or opposing the passage of legislation;

(2) seek other employment for the legislator or solicit a contract for the legislator's services by the use of the office; ~~or~~

(3) accept a fee or other compensation, except as provided for in 5-2-302, from a Montana state agency or a political subdivision of the state of Montana for speaking to the agency or political subdivision; or

(4) violate the provisions of [section 1]."

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